



Reprinted
January 25, 2008

HOUSE BILL No. 1146

DIGEST OF HB 1146 (Updated January 24, 2008 4:27 pm - DI 117)

Citations Affected: IC 9-25.

Synopsis: Bankruptcy and motor vehicle accident judgments. Eliminates a provision stating that a person's discharge in bankruptcy does not relieve the person from the requirements of the law under which the driver's license of a person who fails to satisfy a judgment for bodily injury or property damage arising out of the use of a motor vehicle is to be suspended until the judgment is satisfied. Adds health savings accounts to the list of property that is exempt from execution or attachment and by so doing qualifies (under the U.S. Bankruptcy Code) health savings accounts as exempt property for an Indiana debtor in bankruptcy. (The introduced version of this bill was prepared by the code revision commission.)

Effective: July 1, 2008.

GiaQuinta, Foley, Behning, Battles

January 8, 2008, read first time and referred to Committee on Judiciary.
January 16, 2008, reported — Do Pass.
January 24, 2008, read second time, amended, ordered engrossed.

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HB 1146—LS 6625/DI 55+



Reprinted
January 25, 2008

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

HOUSE BILL No. 1146

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 9-25-6-7 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2008]: Sec. 7. ~~(a)~~ Except as provided in
3 sections 5 and 6 of this chapter, a suspension required in sections 4 and
4 6 of this chapter remains in effect and no other motor vehicle may be
5 registered in the name of the judgment debtor or a new license issued
6 to the judgment debtor, until the following occur:

7 (1) The judgment is satisfied or stayed.

8 (2) The judgment debtor gives proof of financial responsibility in
9 the future as provided in this article.

10 ~~(b) A discharge in bankruptcy following the rendering of a judgment~~
11 ~~does not relieve the judgment debtor from the requirements of this~~
12 ~~chapter.~~

13 SECTION 2. IC 34-55-10-2, AS AMENDED BY P.L.179-2005,
14 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2008]: Sec. 2. (a) This section does not apply to judgments
16 obtained before October 1, 1977.

17 (b) The amount of each exemption under subsection (c) applies until

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a rule is adopted by the department of financial institutions under section 2.5 of this chapter.

(c) The following property of a debtor domiciled in Indiana is exempt:

(1) Real estate or personal property constituting the personal or family residence of the debtor or a dependent of the debtor, or estates or rights in that real estate or personal property, of not more than fifteen thousand dollars (\$15,000). The exemption under this subdivision is individually available to joint debtors concerning property held by them as tenants by the entireties.

(2) Other real estate or tangible personal property of eight thousand dollars (\$8,000).

(3) Intangible personal property, including choses in action, deposit accounts, and cash (but excluding debts owing and income owing), of three hundred dollars (\$300).

(4) Professionally prescribed health aids for the debtor or a dependent of the debtor.

(5) Any interest that the debtor has in real estate held as a tenant by the entireties. The exemption under this subdivision does not apply to a debt for which the debtor and the debtor's spouse are jointly liable.

(6) An interest, whether vested or not, that the debtor has in a retirement plan or fund to the extent of:

(A) contributions, or portions of contributions, that were made to the retirement plan or fund by or on behalf of the debtor or the debtor's spouse:

(i) which were not subject to federal income taxation to the debtor at the time of the contribution; or

(ii) which are made to an individual retirement account in the manner prescribed by Section 408A of the Internal Revenue Code of 1986;

(B) earnings on contributions made under clause (A) that are not subject to federal income taxation at the time of the levy; and

(C) roll-overs of contributions made under clause (A) that are not subject to federal income taxation at the time of the levy.

(7) Money that is in a medical care savings account established under IC 6-8-11.

(8) Money that is in a health savings account established under Section 223 of the Internal Revenue Code of 1986.

~~(8)~~ (9) Any interest the debtor has in a qualified tuition program, as defined in Section 529(b) of the Internal Revenue Code of

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1 1986, but only to the extent funds in the program are not
2 attributable to:

3 (A) excess contributions, as described in Section 529(b)(6) of
4 the Internal Revenue Code of 1986, and earnings on the excess
5 contributions;

6 (B) contributions made by the debtor within one (1) year
7 before the date of the levy or the date a bankruptcy petition is
8 filed by or against the debtor, and earnings on the
9 contributions; or

10 (C) the excess over five thousand dollars (\$5,000) of aggregate
11 contributions made by the debtor for all programs under this
12 subdivision and education savings accounts under subdivision
13 (9) having the same designated beneficiary:

14 (i) not later than one (1) year before; and

15 (ii) not earlier than two (2) years before;

16 the date of the levy or the date a bankruptcy petition is filed by
17 or against the debtor, and earnings on the aggregate
18 contributions.

19 ~~(9)~~ (10) Any interest the debtor has in an education savings
20 account, as defined in Section 530(b) of the Internal Revenue
21 Code of 1986, but only to the extent funds in the account are not
22 attributable to:

23 (A) excess contributions, as described in Section 4973(e) of
24 the Internal Revenue Code of 1986, and earnings on the excess
25 contributions;

26 (B) contributions made by the debtor within one (1) year
27 before the date of the levy or the date a bankruptcy petition is
28 filed by or against the debtor, and earnings on the
29 contributions; or

30 (C) the excess over five thousand dollars (\$5,000) of aggregate
31 contributions made by the debtor for all accounts under this
32 subdivision and qualified tuition programs under subdivision
33 (8) having the same designated beneficiary:

34 (i) not later than one (1) year before; and

35 (ii) not earlier than two (2) years before;

36 the date of the levy or the date a bankruptcy petition is filed by
37 or against the debtor, and earnings on the excess contributions.

38 ~~(10)~~ (11) The debtor's interest in a refund or a credit received or
39 to be received under section 32 of the Internal Revenue Code of
40 1986.

41 (d) A bankruptcy proceeding that results in the ownership by the
42 bankruptcy estate of a debtor's interest in property held in a tenancy by

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1 the entirety does not result in a severance of the tenancy by the
2 entirety.

3 (e) Real estate or personal property upon which a debtor has
4 voluntarily granted a lien is not, to the extent of the balance due on the
5 debt secured by the lien:

6 (1) subject to this chapter; or

7 (2) exempt from levy or sale on execution or any other final
8 process from a court.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1146, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

LAWSON L, Chair

Committee Vote: yeas 9, nays 0.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1146 be amended to read as follows:

Page 1, after line 12, insert the following:

"SECTION 2. IC 34-55-10-2, AS AMENDED BY P.L.179-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) This section does not apply to judgments obtained before October 1, 1977.

(b) The amount of each exemption under subsection (c) applies until a rule is adopted by the department of financial institutions under section 2.5 of this chapter.

(c) The following property of a debtor domiciled in Indiana is exempt:

- (1) Real estate or personal property constituting the personal or family residence of the debtor or a dependent of the debtor, or estates or rights in that real estate or personal property, of not more than fifteen thousand dollars (\$15,000). The exemption under this subdivision is individually available to joint debtors concerning property held by them as tenants by the entireties.
- (2) Other real estate or tangible personal property of eight thousand dollars (\$8,000).
- (3) Intangible personal property, including choses in action, deposit accounts, and cash (but excluding debts owing and income owing), of three hundred dollars (\$300).
- (4) Professionally prescribed health aids for the debtor or a dependent of the debtor.
- (5) Any interest that the debtor has in real estate held as a tenant by the entireties. The exemption under this subdivision does not apply to a debt for which the debtor and the debtor's spouse are jointly liable.

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(6) An interest, whether vested or not, that the debtor has in a retirement plan or fund to the extent of:

(A) contributions, or portions of contributions, that were made to the retirement plan or fund by or on behalf of the debtor or the debtor's spouse:

(i) which were not subject to federal income taxation to the debtor at the time of the contribution; or

(ii) which are made to an individual retirement account in the manner prescribed by Section 408A of the Internal Revenue Code of 1986;

(B) earnings on contributions made under clause (A) that are not subject to federal income taxation at the time of the levy; and

(C) roll-overs of contributions made under clause (A) that are not subject to federal income taxation at the time of the levy.

(7) Money that is in a medical care savings account established under IC 6-8-11.

(8) Money that is in a health savings account established under Section 223 of the Internal Revenue Code of 1986.

~~(8)~~ (9) Any interest the debtor has in a qualified tuition program, as defined in Section 529(b) of the Internal Revenue Code of 1986, but only to the extent funds in the program are not attributable to:

(A) excess contributions, as described in Section 529(b)(6) of the Internal Revenue Code of 1986, and earnings on the excess contributions;

(B) contributions made by the debtor within one (1) year before the date of the levy or the date a bankruptcy petition is filed by or against the debtor, and earnings on the contributions; or

(C) the excess over five thousand dollars (\$5,000) of aggregate contributions made by the debtor for all programs under this subdivision and education savings accounts under subdivision

(9) having the same designated beneficiary:

(i) not later than one (1) year before; and

(ii) not earlier than two (2) years before;

the date of the levy or the date a bankruptcy petition is filed by or against the debtor, and earnings on the aggregate contributions.

~~(9)~~ (10) Any interest the debtor has in an education savings account, as defined in Section 530(b) of the Internal Revenue Code of 1986, but only to the extent funds in the account are not

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attributable to:

- (A) excess contributions, as described in Section 4973(e) of the Internal Revenue Code of 1986, and earnings on the excess contributions;
- (B) contributions made by the debtor within one (1) year before the date of the levy or the date a bankruptcy petition is filed by or against the debtor, and earnings on the contributions; or
- (C) the excess over five thousand dollars (\$5,000) of aggregate contributions made by the debtor for all accounts under this subdivision and qualified tuition programs under subdivision (8) having the same designated beneficiary:
 - (i) not later than one (1) year before; and
 - (ii) not earlier than two (2) years before;
 the date of the levy or the date a bankruptcy petition is filed by or against the debtor, and earnings on the excess contributions.
- ~~(10)~~ (11) The debtor's interest in a refund or a credit received or to be received under section 32 of the Internal Revenue Code of 1986.
- (d) A bankruptcy proceeding that results in the ownership by the bankruptcy estate of a debtor's interest in property held in a tenancy by the entirety does not result in a severance of the tenancy by the entirety.
- (e) Real estate or personal property upon which a debtor has voluntarily granted a lien is not, to the extent of the balance due on the debt secured by the lien:
 - (1) subject to this chapter; or
 - (2) exempt from levy or sale on execution or any other final process from a court."

(Reference is to HB 1146 as printed January 17, 2008.)

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